

EX PARTE OR LATE FILED

DOCKET FILE COPY ORIGINAL

LATHAM & WATKINS

ATTORNEYS AT LAW

1001 PENNSYLVANIA AVE., N.W., SUITE 1300
WASHINGTON, D.C. 20004-2505

TELEPHONE (202) 637-2200

FAX (202) 637-2201

TLX 590775

ELN 62793269

PAUL R. WATKINS (1899-1973)

DANA LATHAM (1898-1974)

January 26, 1994

CHICAGO OFFICE

SEARS TOWER, SUITE 5800
CHICAGO, ILLINOIS 60606

TELEPHONE (312) 876-7700

FAX (312) 889-9797

LONDON OFFICE

ONE ANGEL COURT

LONDON EC2R 7HJ ENGLAND

TELEPHONE + 44-71-374 4444

FAX + 44-71-374 4460

LOS ANGELES OFFICE

633 WEST FIFTH STREET, SUITE 4000
LOS ANGELES, CALIFORNIA 90071-2007

TELEPHONE (213) 485-1234

FAX (213) 891-8763

MOSCOW OFFICE

113/1 LENINSKY PROSPECT, SUITE C200

MOSCOW 117198 RUSSIA

TELEPHONE + 7-503 956-5555

FAX + 7-503 956-5556

NEW YORK OFFICE

885 THIRD AVENUE, SUITE 1000
NEW YORK, NEW YORK 10022-4802

TELEPHONE (212) 908-1200

FAX (212) 751-4864

ORANGE COUNTY OFFICE

650 TOWN CENTER DRIVE, SUITE 2000
COSTA MESA, CALIFORNIA 92626-1925

TELEPHONE (714) 540-1235

FAX (714) 755-8290

SAN DIEGO OFFICE

701 "B" STREET, SUITE 2100

SAN DIEGO, CALIFORNIA 92101-8197

TELEPHONE (619) 236-1234

FAX (619) 696-7419

SAN FRANCISCO OFFICE

505 MONTGOMERY STREET, SUITE 1900
SAN FRANCISCO, CALIFORNIA 94111-2562

TELEPHONE (415) 391-0800

FAX (415) 395-8095

RECEIVED

JAN 26 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: PP Docket No. 93-253: Competitive Bidding

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, this letter serves as notice of an ex-parte communication in the above-referenced proceeding. Today, Lauren Batagglia, Geraldine Reynolds and Jeffrey Keffer, all of EON Corporation, along with James F. Rogers of this office and the undersigned met with the following Commission representatives: Ralph A. Haller, Chief of the Private Radio Bureau; Robert H. McNamara and Herbert W. Zeiler of the Special Services Division of the Private Radio Branch; John B. Johnston of the Personal Radio Bureau, Special Services Division, Private Radio Bureau; and F. Ronald Netro, Engineer Assistant, Private Radio Bureau. The purpose of this meeting was to discuss the use of spectrum auction procedures for the Interactive Video and Data Service ("IVDS"). The materials attached hereto were distributed and used during the meeting.

No. of Copies rec'd _____
List ABCDE _____

052

LATHAM & WATKINS

William F. Caton
January 26, 1994
Page 2

Please contact the undersigned if there are any
questions regarding this matter.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Raymond B. Grochowski".

Raymond B. Grochowski
of LATHAM & WATKINS

RECEIVED

JAN 26 1994

EON CORPORATION

IVDS AUCTION ISSUES

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 26, 1994

- THE COMMISSION SHOULD COMMENCE IVDS AUCTIONS AS SOON AS POSSIBLE
 - IVDS AUCTIONS SHOULD NOT BE DELAYED WHILE AUCTIONS FOR OTHER SERVICES ARE CONDUCTED
 - THE PROCESS OF LICENSING IVDS HAS ALREADY LASTED SEVERAL YEARS, DELAYING COMMENCEMENT OF SERVICE
 - IVDS COULD PROVIDE A MORE MANAGEABLE TEST SERVICE FOR COMPETITIVE BIDDING THAN PCS
- IVDS IS LIKELY TO INVOLVE SUBSCRIBER-COMPENSATED SERVICES, AND THUS SHOULD SATISFY STATUTORY AUCTION CRITERIA
 - THE COMMISSION SHOULD NOT ADOPT ANY RULES THAT WOULD INHIBIT AN IVDS OPERATOR'S ABILITY TO OFFER SERVICE TO THE PUBLIC

EX PARTE OR LATE FILED

- IVDS MARKETS SHOULD BE AUCTIONED IN BLOCKS, TO PERMIT
MANAGED SYSTEM ROLL-OUT
 - BLOCKS SHOULD BE COMPOSED OF ALL MARKETS IN A
SINGLE ADI OR DMA
 - ALLOWS IVDS PROVIDER TO REACH "CRITICAL MASS"
OF HOUSEHOLDS IN A SINGLE TELEVISION MARKET
 - COVERAGE OF TV MARKETS, AND NOT JUST MSAs, IS
KEY TO PARTICIPATION BY ADVERTISERS,
PROGRAMMERS AND NETWORKS*
 - SUGGESTION: AUCTION MARKETS OF TWENTY ADIs OR DMAs
EACH QUARTER AT OUTSET, INCREASING THIS NUMBER AS
ADIs OR DMAs TO BE AUCTIONED GET SMALLER
 - ENTIRE PROCESS WOULD THEN TAKE NO MORE THAN
TWO TO THREE YEARS

* See attached discussion of impact of conducting IVDS Auctions in ADI Order.

- **PREFERENCES SHOULD BE APPLIED TO IVDS AUCTIONS**
 - **IVDS REQUIRES A RELATIVELY MODEST INITIAL INVESTMENT TO COMMENCE SERVICE, AND THUS PROVIDES AN OPPORTUNITY FOR DESIGNATED ENTITIES TO ENTER THE TELECOMMUNICATIONS MARKETPLACE**
 - **PREFERENCES SHOULD BE GIVEN TO SMALL BUSINESSES ON THE BASIS OF TOTAL ANNUAL RECEIPTS FOR TELECOMMUNICATIONS COMPANIES, AS DEFINED IN SBA REGULATIONS**
 - **PREFERENCES SHOULD BE ALSO GIVEN TO APPLICANTS OWNED BY MINORITIES AND WOMEN**

Auctioning IVDS Service Areas in ADI Order

Because IVDS is a television driven service, the Area of Dominant Influence (ADI), as defined by Arbitron, is an important geographical market definition to consider when rolling out an IVDS service. An ADI is composed of multiple service areas. Some service areas are wholly contained within an ADI, others span one or more ADIs. Both ADIs and IVDS service area boundaries are defined by counties.

EON proposes auctioning IVDS in ADI order because it makes possible offering service to a critical mass of households within a television market. Providing access to IVDS to a threshold level of homes permits the highest and best use of the spectrum, allowing a robust service offering because television programmers and TV advertisers want to reach that critical mass of homes before committing to a new interactive technology. Research indicates that to reach its full potential, an IVDS network must provide coverage to 80 percent of the households within an ADI. At 80 percent coverage of an ADI, a compelling case can be made to advertisers, TV programmers, local TV station owners, and TV networks that IVDS is a viable service which they can adopt to make their programming interactive.

Example A

As an example, the Washington, D.C. ADI (ranked #7) contains 9 whole or partial IVDS service areas. The core service area (MSA #8 - Washington, D.C.), contains 66 percent of the ADI TV households. To reach 80 percent of the ADI TV households, 3 additional service areas must be included in the service area.

A Washington, D.C. broadcaster who wants to make his news programming interactive through implementing an IVDS polling service will probably do so only if the interactive service is available to a threshold number of viewers in his market. If an IVDS technology is not available to at least 80 percent of the Washington, D.C. TV viewing area, it is unlikely to be considered by the broadcaster. If only the core service area is licensed, the broadcaster is unlikely to risk alienating the 34 percent of his viewership that does not have access to IVDS because their service areas have not yet been licensed. However, if all of the service areas in this ADI are licensed at the same time, then the possibility of service to the threshold population (80 percent) exists and the broadcaster is more likely to implement polling and other interactive services.

Example B

A major department store chain in the Washington, D.C. metropolitan area with stores in the suburbs as well as a store in the city advertises regularly on television. As a television advertiser, the company strives to maximize its advertising budget by buying airtime during programs that fit a certain demographic profile. As part of that profile, the store will want to be sure that they are reaching a certain threshold number of viewers and will select stations and time slots that can deliver that viewership.

In selecting an IVDS technology, advertisers would use the same approach. If an IVDS technology is not available in at least 80 percent of the Washington, D.C. market it would be very difficult to convince an advertiser to adopt the technology. Advertisers will not pay to produce and air interactive commercials if sufficient coverage does not exist in the market.

ADI/MSA Break Down
Examples

ADI	ADI HH'S	IVDS Service Area	Service Area Name	Service Area HH'S	% OF ADI	CUM % OF ADI
7	1,703,284	8	Washington, D.C.	1,120,626	65.79%	65.79%
		269	Cumberland, MD-WV*	39,615	2.33%	68.12%
		468	Maryland 2 - Kent*	146,345	8.59%	76.71%
		690	Virginia 10 - Frederick	79,181	4.65%	81.36%
		691	Virginia 11 - Madison	75,068	4.41%	85.77%
		621	Pennsylvania 10 - Bedford	68,852	4.04%	89.81%
		692	Virginia 12 - Caroline	63,398	3.72%	93.53%
		704	West Virginia 4 - Grant	57,629	3.38%	96.91%
		469	Maryland 3 - Frederick	52,570	3.09%	100.00%
10	1,587,245	17	Atlanta, GA	965,407	60.82%	60.82%
		234	Athens, GA	57,787	3.64%	64.46%
		372	Georgia 2 - Dawson	92,325	5.82%	70.28%
		311	Alabama 5 - Cleburne	76,283	4.81%	75.09%
		375	Georgia 5 - Haralson	76,012	4.79%	79.88%
		371	Georgia 1 - Whitfield	73,313	4.62%	84.49%
		373	Georgia 3 - Chattooga	71,595	4.51%	89.00%
		565	North Carolina 1 - Cherokee	66,491	4.19%	93.19%
		376	Georgia 6 - Spalding	65,679	4.14%	97.33%
		374	Georgia 4 - Jasper	42,353	2.67%	100.00%

* Denotes partial service area